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THE ALBERTA



# Counsellor

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October, 1958

## ANNUAL CONVENTIONS COMING SOON

### OF MAJOR IMPORTANCE

Annual conventions both of the Union of Alberta Municipalities and the Alberta Association of Municipal Districts are being held in Edmonton during the next few weeks. Both conventions promise to be of outstanding importance to the administration of public affairs in Alberta.

Registration for the Union convention (it's fifty-fourth) begins Wednesday evening, October 29, with proceedings continuing from October 30 through the following Saturday morning, November 1. Described as "the one you can't afford to miss" the convention will provide greater opportunity than in former years for the full discussion of resolutions. A record attendance is anticipated.

Dates for the fiftieth annual convention of the Alberta Association of Municipal Districts are November 18, 19, 20 and 21. Handbooks outlining a special jubilee program will be in the mail shortly.

Featuring the opening session of the Union of Alberta Municipalities' convention will be addresses by Lieutenant Governor Bowlen; Mayor Wm. Hawrelak, Edmonton; Mayor A. Broadfoot, Redcliff; and Mayor A. Soetaert, Morinville, Union President; as well as reports from J.H. Galbraith, Ponoka, Secretary-Treasurer; and Alan MacDonald, Edmonton, Chairman of the Legislative Committee.

Air Vice Marshal Howsam will make an important announcement regarding Civil Defence at 2:30 on Thursday and after a dinner tendered the delegates by the City of Edmonton, Mr. George Haythorne, son of a former reeve of Strathcona Municipal District and now Assistant Deputy Minister of Labour, Ottawa, will lead a discussion on what municipalities can do in regard to winter unemployment. Others of the panel will be J.E. Oberholtzer, Deputy Minister of Industries and Labour and Commissioner D.B. Menzies, City of Edmonton.

Hon. A. J. Hooke will address the convention on Friday morning, while the speaker at the noon luncheon will be Hon. E. W. Hinman, Provincial Treasurer. At 2:30 Hon. A. O. Aalborg will speak on the topic "Financing of Education". It is expected that Premier Manning's announcement of the Government plans for the next five years in Alberta will receive considerable attention and "important information" may be forthcoming regarding this major problem.

Resolutions, the election of officers and other convention business on Saturday morning will bring the Convention to a close.

### ENROLLMENT HEAVY

Enrollment for the courses in municipal administration and assessment may reach three hundred, according to Donald Bancroft, lecturer in charge. The two courses, which are being offered by the Public Administration Division of the Extension Department, University of Alberta, began early in October. Interest seems to be equally divided between the new courses offered, and there are indications that further courses in Municipal Accounting, Civic Administration and School Administration would find an equal number of applicants.

Plans are nearing completion to designate meeting centres so that  
(More on Page 8)

### MACGREGOR LEAVES D M A

Appointment of Colin G. Macgregor to the Alberta Liquor Control Board was announced in September by Premier Ernest Manning. Mr. Macgregor joined the Department of Municipal Affairs in 1934 and since 1941 he has been administrative accountant, except for service in the Royal Canadian Navy during World War II. He was also personnel officer for the Department during the last year.



COLIN G. MACGREGOR

Mac was born at Brandon, Manitoba, forty-eight years ago, his residence in Edmonton dating from the age of two.

One of the most popular officials in the Department, he takes with him the best wishes of his many friends and fellow workers. A presentation will be held later this month.

New administrative accountant is Duncan R. Watson who has been assistant to Mr. Macgregor since 1954. A native of Calgary, Mr. Watson served seven years with the Canadian army, after which he entered private business as an accountant. He joined the staff of the Department in 1950.

### RULING ON ASSESSMENT

Fixed equipment located on well and battery sites shall be assessed as improvements, according to a prepared statement issued recently by J.B. Laidlaw, Assessment Commissioner. He pointed out that "where such equipment is assessable, the Government would not favor the imposition of a business tax additional thereto." The point will be clarified by amending legislation.

Mr. Laidlaw's statement follows:

Following amendments to The Assessment Act approved during the 1958 Session of the Legislature some confusion subsequently arose concerning the interpretation which should be properly attributed to Section 14 thereof.

After a brief discussion on the subject with officials of the Attorney General's Department I deemed it advisable to seek further  
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### THIS MONTH

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## BARNWELL CELEBRATES

One of the many charming little communities in Southern Alberta is Barnwell which recently celebrated its Golden Jubilee. The Herald offers its congratulations. Barnwell was once Woodpecker - that was before the homesteaders filed on the fertile lands of the area and long before irrigation came to give the settlers security against drought. Today with its pleasant homes, fine schools, green fields, orchards and groves it is "Beautiful Barnwell," a thriving, contented community. The Jubilee was a "Home Coming" for scores of the pioneers of the district and their families. A four-block long parade with flags flying and floats depicting the growth of the district and something of its history was a feature. The Barnwell folk, old and young, joined in fervent tribute to those sturdy men and women who laid the foundations for their now highly productive district. There were hundreds of hardships true in those early days but they were met and overcome. They were a self-reliant lot - our pioneers. We still need their spirit, a goodly measure of it.

-Lethbridge Herald.

\* \* \* \*

The above editorial, succinct but charmingly phrased, appeared in the Lethbridge Herald of August 8. Because of our printing schedule (complicated by an intervening annual holiday) this is our first opportunity to add our congratulations to those offered by The Herald. We, too, wish the community of Barnwell another fifty golden years. That refers of course to the people who live there and, as well, to the pioneers who "laid the foundations" of the community.

We would like to know them . . . and to have shared the pleasure they must have experienced on this occasion.

\* \* \* \*

Incidentally, we hope the note is not too jarring when we say (somewhat wistfully) that it would have been nice if some warm-hearted reporter had apprised us of the celebration shortly after it happened. This being so, the story would have appeared in our September issue, schedules and holidays notwithstanding.

## PROFESSIONALIZATION

Serious consideration to "professionalizing" upper level government employees is being given in British Columbia. A proposed regulation has been considered and finally approved by the Board of Examiners of British Columbia. The new regulation provides that after September 1, 1963, no person may hold certain municipal positions unless such persons have either a Junior Certificate or a Senior Certificate in Municipal Administration or in Finance. A treasurer or comptroller or collector of a town, city or district municipality having more than one administrative officer must hold a Senior Certificate in Municipal Finance. A senior Certificate in Municipal Finance may be granted to an applicant, a British subject of 21 years of age, who has been awarded a Senior Diploma by the University of British Columbia for having passed the prescribed examinations for completion of the fourth year in the financial field and who has completed not less than four years' municipal service satisfactory to the Board of Examiners. Somewhat similar qualifications have been established for municipal managers and administrative officers.

The new regulation was announced at the 29th annual conference of the Municipal Officers' Association of British Columbia held at Victoria, B.C., May 26 - 28, 1958. At the same conference a resolution was submitted by the Vancouver Island Municipal Officers' Association, which carried, requesting that a special committee be appointed to investigate the matter of professionalization and that a report thereon be made at the next annual conference. In presenting the resolution, the Chartered Institute of Secretaries was cited as an illustration of a professional organization of the type sought for municipal officials.

- Municipal Finance News Letter

## THE CHANGING SCENE

### SUMMER VILLAGE OF ALBERTA BEACH

Mayor ..... G.D. Chisholm,  
11014-110th Avenue,  
Edmonton, Alberta.

### SUMMER VILLAGE OF ISLAND LAKE

Mayor ..... D. Evans,  
7107-83 Street,  
Edmonton, Alberta.  
Secretary-Treasurer ..... O.S. Taylor,  
10983 - 122 Street,  
Edmonton, Alberta.

### VILLAGE OF NAMPA

Secretary-Treasurer ..... N.W. Pinkham

### SUMMER VILLAGE OF GHOST LAKE

Secretary-Treasurer ..... J.S. Stanford,  
400 - 401 Leeson-Lineham Bldg.,  
Calgary, Alberta.

### SUMMER VILLAGE OF ITASKA BEACH

Mayor ..... Mrs. E. Bell,  
11135 - Sask. Drive,  
Edmonton, Alberta.

### TOWN OF MANNING

Secretary-Treasurer ..... C. Swann

### VILLAGE OF RYLEY

Secretary-Treasurer ..... R. L. Cross

### A WAY of LIFE - FAITH (The Lord's Prayer - Matthew 6: 9-13)

"Our Father" - So I think of You, my God! This universe is not cold and uncaring. It is warm with love. I am never alone. In You I am bound up with the brotherhood of man in the great bundle of life.

"Which art in heaven" - You are in the spiritual, not far away. In You I live and move and have my being. God is in my heart and I am in the heart of God. This is life's harmony and health.

"Hallowed be Thy name" - Holy and glorious is Thy nature, Almighty God. In awe and reverence, I, a poor mortal, stand before Thee. Make me clean: Make me strong. Whatever I lose in life, keep me from losing my soul.

"Thy Kingdom come" - May it come in my heart and the lives of all men, the Kingdom of goodness and joy, the Kingdom of light and creation. In this time when faith fails many, help me to be more and more confident in Thy control and purpose.

"Thy will be done in earth as it is in heaven" - Now I surrender myself, O Holy Spirit, that Thy will may be done in my body. Incarnate Thyself in me. Clothe Thyself with my flesh. Make Thy will to be realized in government and industry, in society and business.

"Give us this day our daily bread" - O my Father, the hunger of the world! Children cry with the pain of hunger and sickness. Keep me from the greed that does not share, the covetousness that leads to anxiety, the selfishness that creates strife. Give bread for everybody, bread that does not fail, bread enough for today — and trust.

"And forgive us our debts as we forgive our debtors" - I owe You so much that I cannot pay. I have hurt You, my best and dearest Friend and ask Your forgiveness. But resentment and hurt feelings are hard to root out of my heart. Only You can do it. Only Your Grace. Make me loving like Yourself.

"And lead us not into temptation, but deliver us from evil" - Keep me safe in the hour of trial. Protect me from an unguarded hour. I am so forgetful. Now I am at prayer, but I must go out to work and meet people. From the foolish word, from the stupid deed, from the unloving look, from the depressed and worried life, save me my God!

"For Thine is the Kingdom and the Power and the Glory, forever" - All the things of this earth pass away. My little vanity dies. My strength fails. O Giver of life, Source of glory, fill me with the power of an endless life. Give me power to become a Child of God, that I may live with Thee forever.

Amen.

(Reprinted from the Calgary Albertan)



## A PROGRESS REPORT

# EQUALIZATION OF ASSESSMENTS

BY HON. A. J. HOOKE,

MINISTER OF MUNICIPAL AFFAIRS

In order to evaluate fairly the subject of assessment equalization in its true perspective it is first necessary I think to consider certain fixed principles involved as well as the attendant difficulties attached to the implementation of these principles.

The valuation of property for taxation purposes comprises a most difficult field of endeavor in that it is well nigh impossible to secure explicit guidance for the reason that the question of "value" has never been satisfactorily settled.

Generally speaking there is usually found a lack of uniformity in assessment legislation throughout the country and property may be variously required to be assessed at "value", "fair value", "true value", "fair actual value" and even "market value".

Basically, the principle is that land and other property is to be assessed at its actual value for purposes of taxation. The courts in the past have handed down different decisions as to the proper interpretation of the aforementioned terms but the consensus seems to indicate "actual value" should be defined as the value at which land would be taken in satisfaction of a just debt owing by a solvent debtor.

One court in dealing with the meaning of "actual value" stated in its judgment: "In the yearly valuation of a property for purposes of municipal assessment there is no room for hypothesis as regards the future of property. The assessor should not look at past or subsequent or potential value. The valuation must be based on conditions as he finds them at the date of the assessment".

In the absence of specific guidance to the contrary, fair actual value of property for assessment purposes may be determined having in mind any one or all of the following factors; namely, normal sale value, present use, location, cost of replacement, normal rental value or any other circumstances affecting the value.

In certain jurisdictions within the United States assessors are required to ascertain the fair market value of property and thereafter place assessments accordingly but the great danger in this approach lies in the fact that market values may decline without warning, thereby leaving the whole assessment structure on an extremely rocky foundation in that it exceeds market value and therefore cannot be justified.

## ASSESSMENT MANUAL

For the reason that it is practically impossible to establish true market value at a given date for all types of property likely to be found (due mainly to a lack of sufficient sales, especially in the smaller municipalities) and because this method does not readily lend itself to mass appraisal, a more convenient approach is the use of a common yardstick or assessment manual by which uniformity and equity may be obtained. This does not mean that sales data should be ignored and such information in addition to property rental income should continue to be recorded as each provides excellent evidence of value. An assessment manual can be designed to reflect rates based on reproduction cost of various types of buildings tied to any given year and by utilizing this method of procedure similar types of buildings within a municipality or municipalities may be valued equitably on a uniform basis. In the same manner unit values for land can be recommended subject to modification on the part of the assessor depending upon economic conditions encountered.

It will be appreciated then that the use of a manual or common yardstick by assessors of all municipalities and the resultant standardization of methods and procedures will ensure the assessment of similar properties on a common basis. Accordingly, two buildings of like design - one located in a large city or first class town and the other situate in a poor village - will each carry the same basic assessment, but after a consideration of sales data for each municipality both assessments may require adjustment in order that final values will bear the proper percentage relationship to market. Herein lies the purpose of equalization. While I have used only single properties by way of example, the illustration will serve to show nevertheless the principle which must be applied in classifying municipalities one with another.

## APPOINTMENT OF BOARD

Returning now to the subject matter of this report, the Assessment Equalization Board as constituted at present was appointed by O.C. 2001/57, provision for which is made by Section 14 of The Municipalities Assessment and Equalization Act, being Chapter 61 of the Statutes of Alberta, 1957.

The Act provides that the Board shall equalize the assessments of all municipalities so that the assessments of all lands, buildings and other improvements liable to taxation will be upon a common basis



Hon. A. J. Hooke and J. B. Laidlaw, Assessment Commissioner and chairman of the Assessment Equalization Board discuss Board problems in the Minister's office.

of valuation and fair and equitable as between one another. In determining the equalized assessment of a municipality the Board may take into consideration such factors as it may deem necessary which, in the opinion of the Board, should be considered for any purpose of equalization. It is also provided in the Act that an appeal may be made to the Alberta Assessment Appeal Board by any municipality from all orders of the Board made in relation to the equalization of assessments. Where an equalized assessment has been determined by the Board in respect of a municipality the Lieutenant Governor in Council may by order prescribe the purpose for which the equalized assessment shall apply.

No order has been issued to date under this authority but for the year 1958 equalized assessments were established by the Board in accordance with regulations passed pursuant to The Hospitalization Benefits Act and strictly for the purpose of that Act. Such regulations required that upon receipt of assessment returns from municipalities, assessment totals would be adjusted to a common basis of valuation. Equalized assessments as established by the Board for 1958 represented therefore, assessment totals for all municipalities adjusted to a common basis of valuation with buildings placed at sixty per cent of the level of replacement cost applicable to the year 1945. The major contributing influence for the utilization of 1945 replacement costs as the common basis of valuation was the fact that the taxable property assessments of the Cities of Calgary and Edmonton, comprising approximately forty-five per cent of the total taxable property in the Province, were made at this level.

Buildings and improvement values in all municipalities were revised as necessary and some adjustments were made in land values, particularly in Edmonton (residential) and Calgary (inner zone com-

(More on Page 7)



## AMENDMENTS TO THE FEDERAL TAX

Immediately following the Budget Speech of the Minister of Finance (June 17) a meeting was held in Ottawa between the Federation and officers of the Department of National Revenue regarding the new amendments to the Excise Tax Act whereby certain goods purchased by municipalities will be exempt from the incidence of the Federal Sales Tax.

The following outlines the essential information which municipalities will want to be aware of with respect to those municipal purchases which are now tax exempt under the Act; also the required procedures to be followed by municipalities in purchasing or importing tax exempt goods.

The federation is cooperating closely with the Department of National Revenue with respect to these important tax changes and any comments which municipal governments may have thereon can be channelled through the Federation.

A. The new amendments provide that the Sales Tax on the following goods will be repealed:

Certain goods sold to or imported by municipalities for their own use and not for resale as follows:

- (i) Culverts;
- (ii) Structural aluminum for bridges;
- (iii) Fire truck chassis for the permanent attachment thereon of fire fighting equipment to be used directly in fire fighting;
- (iv) Fire hose including couplings and nozzles therefor;
- (v) Diesel fuel oil for use in generating electricity;
- (vi) Goods for use as part of sewage and drainage systems;
- (vii) Articles and materials to be used exclusively in the manufacture of the foregoing.

B. Another amendment provides for exemption from the Sales Tax on "chalkboards, desks, tables and chairs, excluding upholstered chairs, when sold to educational institutions and without the requirement that they be specially designed for class room use".

C. Section 47 of the Excise Tax Act has also been amended. Hitherto it read as follows:

(1) Where goods have been purchased by an institution to which this section applies, for its own sole use and not for resale, and the tax imposed by section 30 has been paid in respect of those goods, the Minister may, upon application by that institution in such form as the Minister prescribes, pay to the institution an amount equal to that tax.

(2) This section applies in respect of an institution that is certified by the Minister of National Health and Welfare in accordance with regulations of the Governor-in-Council to be

- (a) a bona fide public institution whose principal purpose is to provide permanent or semi-permanent shelter and care for children or aged, infirm or incapacitated persons who reside in the institution; and
- (b) in receipt annually of aid from the Government of Canada or a province for the maintenance of persons specified in paragraph (a). 1950, c.15, s.6.

The amendment to the foregoing will be as follows:

That payments under section forty-seven of the Act to the institutions for children and aged, infirm or incapacitated persons to which that section applies be increased

- (a) by enlarging the class of such institutions eligible to receive such payments by removing the present requirement that the shelter or care provided must be permanent or semi-permanent;
- (b) by including in the payments an amount equal to the taxes paid on purchases made within two years prior to certification by the Minister of National Health and Welfare, and made by or on behalf of the institution in the course

of construction during that period.

D. Other Municipal Purchases previously exempted from the payment of Sales Tax provide for the following:

- (i) Precast concrete shapes when purchased by municipalities for bridges in public highway systems;
- (ii) Structural steel when purchased by municipalities for bridges in public highways systems;
- (iii) Drain tile not exceeding four inches in inside diameter and twelve inches in length;
- (iv) Perforated bituminized fibre pipe for drainage purposes not exceeding four inches in inside diameter;
- (v) Electricity;
- (vi) Equipment sold to or imported by municipalities for their own use and not for resale at a price in excess of Five Hundred Dollars per unit, specially designed for use directly for road making, road cleaning or fire fighting, but not including automobiles or ordinary motor trucks.

NOTE: The reference to fire fighting equipment in the foregoing paragraph will be amended (as indicated by the Minister of Finance on June 17) to provide for the exemption from the Sales Tax of "fire truck chassis for the permanent attachment thereon of fire fighting equipment to be used directly in fire fighting".

E. Required Procedure of Municipal Governments in Purchasing or Importing Tax exempt goods:

If a municipality is purchasing or importing any of the goods which it is now entitled to obtain sales tax free, it must place the following certificate on its purchases orders or import entries, as the case may be:

"We certify that the goods ordered/imported hereby are for the sole use of ..... (municipality) and not for resale.

.....  
Title and Signature of  
Municipal Officer.

As it is likely that some municipalities will be acquiring goods through a contractor, who, in undertaking a municipal contract, is bound to provide goods which would be exempt if purchased directly by the municipality, the municipality has, under such circumstances, two ways in which it may avail itself of the exemption. They are as follows:

(1) For the municipality to purchase the goods sales tax free by using the above certificate on its purchase orders or import entries and then supply these goods to the contractor gratis for him to incorporate in the project under contract, or

(2) If the contract is a cost plus contract involving any of the exempt goods, the contractor must pay the tax when he purchases the goods. Then if he sells the goods, as such, to the municipality (provided the municipality supplies him with the appropriate certificate) the contractor may submit a refund claim for the sales tax which the Department originally received on the goods in question. The sale price of the goods must be divorced from all other charges by the contractor.

If the contract with the municipality is made for a lump sum or unit price and the contractor purchases some of the goods in question for use in the execution of the contract, he is not entitled to obtain the goods sales tax free nor will he be granted a refund when he bills the municipality for the amount of the lump sum or unit price or any instalments thereon because this kind of contract is not deemed to be a sale of goods to the municipality. (The Listening Post) ●

### TWO MILLION IN 17 YEARS?

Population density for all Alberta averaged 4.51 persons per square mile of land in 1956, compared to an average density for all Canada (excluding northern territories) of 7.58, and a population density in the United States (in 1950) of 50.7.

It is assumed that the annual rate of population growth of 3.6 per cent, experienced from 1951 to 1956, will be maintained to the end of our forecast period, giving 2,000,000 as the forecast of total Alberta population in 1975.

- "ALBERTA - PROVINCE OF OPPORTUNITY"



"... HAVING REGARD TO THE POTENTIAL VALUE ..."

# ROLE OF SECRETARY-TREASURERS

BY ALAN BROWNLEE, Q. C.

TEXT OF AN ADDRESS BY MR. BROWNLEE DURING THE COURSE IN MUNICIPAL ADMINISTRATION  
AT THE BANFF SCHOOL OF FINE ARTS (LAST OF TWO PARTS)

## NATURE OF EXPROPRIATION PROCEEDINGS

Your councillors may ask, - why all this fuss and red tape about something which we have power to do and which we must do to promote the welfare of individual ratepayers and of the municipality as a whole. The answer simply is that the power of expropriation is an extraordinary power to do something which otherwise would be an invasion of the rights of an individual. The power is, of course, limited strictly to matters which are judged to be in the interests of the public so that the taking away of the rights of private individuals is warranted. You have often heard the remark, for example, that taxing statutes must be strictly interpreted in favor of the taxpayer. The same thing applies to statutes permitting expropriation. I would like to quote from Challies on the law of Expropriation where he says:

"Leaving out of consideration for the moment the right of expropriation under the prerogative for purposes of the defence of the realm, the right to expropriate, being an unusual and exorbitant right, must be found in the express words of a statute, for the right is never implied ..... This expropriation section has to be construed strictly, - I think it is hardly necessary to cite authority to show that legislation to acquire land compulsorily should be construed strictly ..... No principle is better settled than that the power to expropriate must be strictly pursued and exercised subject to the checks and safeguards provided by the Act which authorizes the proceedings. Where a statute provides for certain formalities to be followed, if it is desired to exercise the right of eminent domain, the statute must be strictly complied with, and a Court cannot say that compliance with such conditions precedent can be dispensed with ..... In the common law provinces an entry upon land without the owner's consent or without the fulfillment of the formalities under a statute giving the right to expropriation is a trespass for which damages may be awarded or an injunction obtained."

These remarks are quite clear and do not have to be enlarged upon.

## EASEMENTS, DITCHES AND DRAINS - Sections 248 and 255

While the acquisitions of land for roads can be a comparatively straight-forward matter, a municipality can run into complications when it wishes to obtain land for other purposes such as rights-of-way or easements, ditches and drains, and the legislation must be considered very carefully.

For a moment let us examine the wording of Sections 248 and 255.

Section 248 (1) permits you to acquire land or any interest in land for certain named purposes including ditches, drains, easements or rights-of-way. Section 255 states that you can expropriate land which you are authorized to acquire, and you can therefore expropriate land for any of the purposes referred to in sub-paragraphs (a) to (j) inclusive of 248 (1). In addition, Section 255 permits you to expropriate land that is necessary for the use, construction, maintenance or repair of any municipal works authorized by this Act or that is necessary for obtaining better access thereto.

Let us suppose that you are contemplating a drainage ditch to carry water from a road allowance across private lands to an outlet such as a creek or a river. You could choose either to attempt to negotiate an agreement with the land owners wherein you would purchase the strip of land necessary, or you might decide instead that you simply want an easement or right-of-way across their lands. As I see it, the only possible advantage to restricting yourself to an easement or right-of-way is that if at some time in the future the drainage ditch could be abandoned, you could surrender your easement or right-of-way back to the land owner, and the prospect of such an event might induce him to grant a right-of-way for less money than he would ask on an outright sale of the land to you. Keep in mind that an easement or right-of-way gives you an interest in land only, such interest being the exclusive use of it for your municipal purposes for so long as you may choose to exercise such use.

For the same purpose you might decide to expropriate the land or the right-of-way under Section 255. The advantage to expropriate obviously is that once you have passed the necessary by-law you know that the land is, to all intents and purposes, yours, and that you do not need to quibble with land owners over compensation which will be decided by arbitration if the land owners do not accept your offer of compensation. The disadvantage of expropriation would appear to be that you may become involved in the costs of arbitration proceedings. I would also suggest that you might find your municipality having to pay a greater amount as a result of arbitration than you might have to pay by agreement with the land owner.

Perhaps one very considerable advantage of expropriation is that it would then be necessary for you to become involved in the preparation of legal documents and in ensuring that they are properly executed and carried out in compliance with the Dower Act. Expropriation is really quite simple. You simply have to pass a by-law; arrange with your surveyors to enter and survey the area to be taken, and then carry out the provisions with respect to compensation. I would think this would be much more simple than to obtain rights of entry for your surveyors, negotiate and prepare agreements and attend to their execution, and then obtain transfers of title in the case of outright sales or obtain registration of your right-of-way agreements.

## REQUIREMENTS OF AN EASEMENT

An easement is a document which requires very careful preparation and it should be preceded by a survey, and by the preparation and registration in the Land Titles Office of a plan of the survey. This is all necessary so that the easement can make actual reference to the strip of land as shown by the registered plan. If the easement does not make reference to the plan in this way it is incapable of being registered in the Land Titles Office, and, of course, registration is the only way that you can get the maximum protection.

For your information and guidance, I would like to outline the basic requirements of an easement and, of course, you will understand that these may vary in different cases. The document should contain the following information:-

1. The full name, post office address and occupation of the land owner.
2. There should be a legal description of the parcel of land through which the right-of-way will run. This legal description should be the same as appears on the owner's title in the Land Titles Office.
3. The consideration payable by the Municipal District to the owner for the easement should be stated, and the receipt of the money should be acknowledged.
4. The name of the municipal district should be set out as Grantee.
5. The actual boundaries of the right-of-way should be stated, and reference made to the registered number of the plan.
6. The purpose for which the easement is granted should be stated in detail, - for example the right to enter on the lands, to construct, dig, maintain, clean out, and reconstruct a drainage ditch. In addition, it should be clearly stated that the servants, agents, vehicles and equipment of the Municipality necessary or incidental to the exercise and enjoyment of its rights is granted by the land owner.
7. It must be stated that the rights conferred under the document continue for so long as the municipal district chooses to exercise them.
8. It should make it clear that the land owner is not to interfere in any way with the public work carried out on the right-of-way.
9. Provision is usually included as to the cutting of thistles, and noxious weeds on the right-of-way. Usually the land owner agrees to do it.

(More on Page 6)



ROLE of SECRETARY-TREASURERS  
(From Page 5)

10. There should be a provision that the municipal district will compensate the land owner for any damage done to buildings, crops, fences or livestock by the municipality or its employees.
11. It will provide that upon the discontinuance of the use of the right-of-way, the municipal district will restore the lands to their original condition insofar as it is practicable to do so.
12. A provision should be inserted that the rights of the municipality to acquire the strip of land pursuant to statutory authority in the event that it should be deemed necessary by the municipality to do so.
13. The document will make it clear that no title to mines, ores, metals, oil, gas or other minerals will be vested in the municipality.
14. The easement will be expressed to be a covenant running with the land and be binding upon both parties and their heirs, successors and assigns.

These are very basic provisions, and if you are examining an easement form for use by your municipality and should discover that they are not all covered, it might be well to consult your local solicitor.

Apparently, the Water Resources Branch has been contributing financial support to drainage projects undertaken by municipal districts subject to the provision that the municipal district must indemnify the Government with respect to any damage claims arising out of the performance of the work. Before coming to this meeting I was advised by Mr. Grindley that this is only done where the drainage ditch or project is started by the municipal district in conjunction with its duty to maintain and drain municipal highways. I am in complete agreement with this attitude and wish to repeat the recommendation that I have made to you before; namely, that you leave the matter of private lands to be taken care of by the land owners themselves under the provisions of the Private Ditches Act or the Drainage Districts Act.

COMPENSATION

It has often occurred to me that it might be of some value to municipal officials to have at least a rough idea of the factors which are taken into consideration by a Board of Arbitration in determining the compensation payable for expropriated land. Such knowledge might be helpful, for example, when attempts are being made to negotiate agreements in an effort to avoid expropriation. While I do not suggest that you are particularly low in the offers of compensation which you do make, it is quite possible that you do not take into consideration some of the factors which have a bearing on what a land owner should receive.

Your starting point is Section 267, subsections 1 and 2 which state in effect as follows:-

- (a) The value of the land taken and of all improvements thereon must be computed.
- (b) The damage to the remaining land must be computed.
- (c) The original cost of extra fencing made necessary must be computed, and
- (d) From the above you deduct the amount by which the remaining land has been increased in value by the public work executed.

The Section gives you a rough outline of the factors to be considered, but does not cover the subject completely. The following additional rules must be taken into consideration:-

1. Dealing first with the land actually taken, the rule is that the owner is entitled to have the market value of the land based upon the most advantageous use to which the property is adapted or could reasonably be applied. Nothing is allowable on merely sentimental or aesthetic grounds or any other ground which does not affect value. The term "market value" has been variously defined, but for our purposes may be described as "the value that a vendor not compelled to sell, not selling under pressure, but desirous of selling, is to get from a purchaser not bound to buy, but willing to buy".

This rule may be modified by the exception that in the absence of a market value, the intrinsic value or value to the owner is the proper measure of compensation. In other words, it would not merely be the market value as on a sale, but the actual value of the property to the land owner which would be allowed.

2. You have to pay for the damage to the remaining property, and

this type of damage may be referred to as "injurious affectation". If property is expropriated and the owner's remaining property is depreciated in value as a result, it has been "injuriouly affected". The things that are covered by the expression "injuriouly affected" are things which relate to the land itself and make it as land less useful to its owner; things which would, but for the legislative sanction, be nuisances, such as vibration, noise, smoke, or such a division of land as prevents its advantageous use as a farm or for the ordinary use of its owner. Things personal to the owner do not form the subject matter of compensation.

When the future use of the part of the owner's land taken may damage the remainder, then such damage may be an injurious affectation of the remaining lands. Thus it might be possible that if a portion of his lands was taken for a nuisance ground, the balance may be damaged by the presence of the nuisance ground.

Of great importance in computing compensation is the question of severance. The basis of a claim to compensation for lands injuriouly affected by severance is that the lands taken are so connected with the lands left that the owner of the latter is less able to use or dispose of them to advantage by reason of the severance. Where part of the property has been expropriated and the owner claims for damage to his remaining property on the grounds of injurious affectation he need not show that the expropriated property and his remaining property were in physical contiguity or that there was unity in their actual use. It is enough if he can show that the unity of their ownership conduced to the advantage or protection of the property as one holding or that the possession or control of each part gave an enhanced value to the property as a whole, and that the severance of the expropriated property prejudiced him in his ability to use or dispose of the remaining property or otherwise depreciated its value.

A very good illustration of damage done by severance came to my attention in a matter of an expropriation for the construction of a power line, where the power line was run diagonally across a quarter section of land. You will all appreciate the extent of the inconvenience in farming with heavy machinery that would result from having a pole line thus constructed on your lands. The question that can be asked under such circumstances is, what has happened to the market value of the land as a result of the severance. Let us take the case of a farmer at age 60 who has planned to retire very shortly, and who has previously tested the market and ascertained that his quarter section is worth \$70.00 an acre, and that if on retirement he puts it up for sale, he will have no difficulty in selling it. His land is then traversed by a power line with the possible result that potential purchasers will either refuse to buy it at all and look elsewhere for land, or will refuse to buy it unless they can get it for a considerable reduction in price. I leave this question with you, - has not the taking of land damaged the remaining land by reducing its market value very considerably.

3. It must be noted that, in assessing a value of a public work to a claimant of expropriated land, regard must be had to the particular and special benefits received by the claimant over and above the general public benefits of the work. The claimant is entitled to his share in that general benefit without deduction from any amount due him for land expropriated to make the general benefit possible.

4. In some circumstances the property may have a special value to an owner over and above the market value to the rest of the community. The special suitability of the land expropriated for the carrying on of a particular business and the additional profits which the owners will derive from so carrying it on, are proper elements in assessing the compensation, but the owner is not entitled to have the capitalized value of those savings and profits added to the market value of the land. A special adaptability of land for a particular purpose or use is simply an element to be considered in estimating its value and is to be taken into account together with all other elements of value. It is not something the value of which is to be estimated apart from the value of land and added thereto.

The owner of the land which is expropriated is entitled to compensation on the basis of the present value of the land to him having regard to the potential value of the property from the developments reasonably to be expected.

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EQUALIZATION of ASSESSMENTS

(From Page 3)

mercial). No change whatever was attempted respecting farm land assessments in rural municipalities as the Board felt that justification for such action must first necessitate the setting up of a sales analysis index, which time would not permit. Having in mind the rather limited time at the Board's disposal after appointment it was considered impractical if not impossible to implement any involved scheme of equalization.

Accordingly, as stated above the equalization program adopted for the current year merely attempted to place property assessments of all municipalities on a common basis of valuation and equalized assessments thus established have application only insofar as The Hospitalization Benefits Act is concerned apart from some limited use in the grant formula adopted pursuant to The Municipalities Assistance Act.

The fact that no municipality exercised the prerogative of appeal might be accepted as indication that equalized assessments as established this year, while far from perfect did not, at least, result in any flagrant inequities. However, since there is the likelihood in the future that equalized assessments will be required to serve numerous purposes, including possibly the basis of taxation, the Board fully recognizes the need of formulating a method of assessment equalization which will prove sound and acceptable to all concerned.

SALES INDEX ANALYSIS

The Act empowers the Board in determining equalized assessments, to take into consideration such factors as it may deem necessary. Mention was made earlier in this report of a sales analysis index. Steps are being taken for the setting up of such an index in order to determine the sales assessment ratio in all municipalities since it is considered this should be a predominant factor in the establishing of equalized assessments.

The Board at present does not have its own facilities for gathering material relevant to the assessment sales ratio study now being conducted and is therefore dependent upon Departmental staff personnel located in the Land Titles Offices at Edmonton and Calgary for particulars concerning property transactions throughout the Province. However, details covering land sales in Alberta Cities aren't available through this source as a result of which the Board is handicapped in its efforts insofar as this class of municipality is concerned.

For various reasons it has been found that approximately fifty per cent of sales registrations must be discarded and those accepted for processing must necessarily be closely checked before they can be used safely. Here again, the Board must depend upon the Assessment Branch staff of the Department for field inspection assistance and assessors, being extremely busy at the moment, find it impossible to handle the inspections requested at a rate of speed which appears desirable to the Board's program. It follows also that investigations covering each acceptable sale and in a quantity respecting each municipality will permit a conclusive and intelligent decision in the matter of ratio which sales bear to assessment in that particular municipality. It will therefore be appreciated that this factor of assessment sales ratio is one which is going to require considerable time and effort before a Province-wide sales analysis can be accomplished to a degree which will prove serviceable for the purpose intended.

RATING SCHEDULE

A tentative rating schedule has been prepared as a means of indexing urban communities and whereby a uniform rating is given to such factors as transportation, population, educational facilities, community services, business facilities, contributing industries, etc.

It has been recently agreed by the Board that these projects should be proceeded with but in view of the time which will necessarily have to elapse before these can be developed to an acceptable degree it is considered that other factors more readily adaptable to our present method should be considered. Such factors as population, power consumption and retail sales are suggested as being of a nature which would permit early incorporation into any system of assessment equalization. The Board's efforts at this time are being directed towards the accumulation of statistics relating to these last mentioned factors.

The Board has been assured the co-operation of the Provincial Bureau of Statistics in having made available to this office information respecting retail and wholesale sales for each urban centre in a manner and to the extent which regulations will permit.

The Board fully expects to have these factors of population, power consumption and retail sales developed to a point which will permit incorporation into our scheme of assessment equalization for the year 1959.



## THE BACK FENCE

Edmonton, Alberta.

The Editor,  
The Alberta Municipal Counsellor.

Dear Sir:

Your "Rough and Tough" editorial on traffic safety in the September issue suggested lines of action which have been considered and even tried in the ceaseless effort to get under the skin of the careless driver. Perhaps the shock treatment consisting of gory pictures and description would work but most people have advised us against it on both esthetic and legal grounds. Particularly with regard to pictures. I can see the pictures as slides to be used in a driver improvement school for violators but can't imagine editors using them in newspapers. If a reporter filed a factual story about the driver whose car was side-swiped when his arm was draped over the window frame and described how the arm was torn off, how the driver staggered from the car in the ditch, climbed to the roadway and lurched down the road to where the arm lay, before collapsing, the story would appear more like this: "Driver suffers loss of arm in collision." The picture of body and arm several feet apart wouldn't likely be used either.

Or how about a young mother, a passenger in her husband's car, who died when the half-drunk husband almost missed a stalled truck on a dark road. The newspaper story said she died but didn't explain that half of the torso from hip to shoulder was torn away and smeared along the length of the wreck.

True stories. Two hundred and eleven of them to the end of August this year. Plenty of material, even for the dailies.

The trouble is that someone always points out that people are simply incapable of identifying THEMSELVES with the horrors all around them. It doesn't seem to have any message for them. I have talked to very few whose fear of a highway accident goes further than a mild concern about paying the deductible expense not covered by insurance. They can only visualize property damage.

Maybe a more dramatic approach would help and if someone can tell us how to get the pictures we'll be glad to experiment. In the meantime we will have to keep at the "positive" and, I'm afraid dull job, of hammering at the right way of doing things in the hope that those who TRY to drive safely may pick up some hints on HOW to drive safely.

As for the others; I'm with you. "Rough and Tough" is the only treatment for those who endanger our lives. Repeaters of driving violations should be thoroughly checked on their second appearance and this fate should be known to us all before our first slip. License suspension should be used more often and a way found to make it more effective. Some people go right on driving while suspended and it seems that they may form a fairly large percentage of the group, just judging by the frequency with which they turn up in court as a result of another accident or violation. About 10,000 drivers are constantly under suspension in Alberta but the benefits are no more apparent than the benefits of the educational program.

We cannot expect a real improvement in the traffic accident problem until punishment for the violator becomes more sure and more severe. In a democracy this just won't happen in a truly effective way as long as a majority of the public fear the PERSONAL effects of tougher laws and penalties.

R. P. Lawrence, Manager,  
Alberta Safety Council.

The correspondence section of The Alberta Municipal Counsellor is open to any reader for the discussion of any problem. Questions raised will be answered to the best of our ability. Letters may be signed with a fictitious name if that is desired, but we would ask that the real name of any correspondent be disclosed to the editor. All letters will be answered, but space and general interest must be considered for publication.

Value of mineral production in Alberta is second highest of the Provinces.

\* \* \* \*

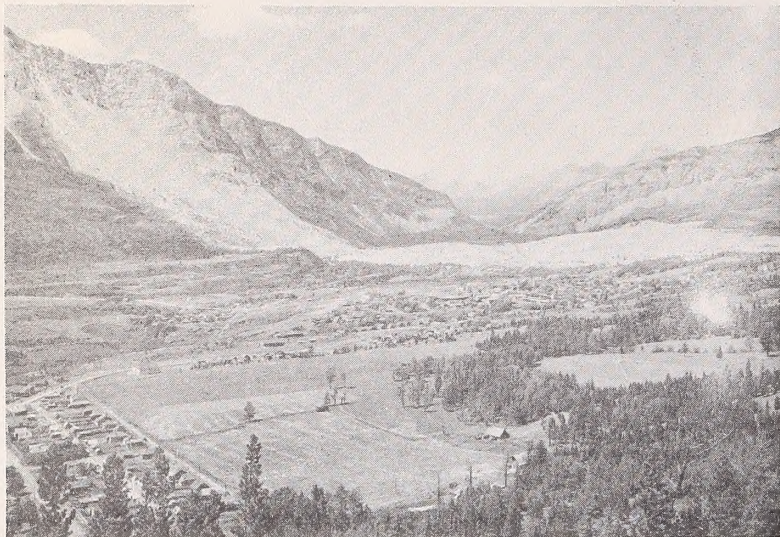
Jasper National Park is the largest in Canada with an area of 4,200 square miles.

\* \* \* \*

First session of the Alberta Legislature held in the Legislative Buildings was opened November 30, 1911, while the building was still under construction.



## HISTORY IN ALBERTA



Huge Boulders Mark Grave of Former Town of Frank

A valley piled with limestone boulders today is mute evidence of the stark tragedy which struck down the village of Frank in south-western Alberta in the early hours of April 29, 1903. More than 60 men, women and children perished when part of Turtle Mountain fell away and came thundering down the slopes, sweeping away all in its terrifying path. Seventy million tons of rock plummeted down the mountainside at 4:10 a.m. It was all over in 100 seconds.

A modern highway and the Canadian Pacific Railway main lines pass over the eternal graves of those who died. Crevices on Turtle Mountain uphold claims of some geologists that another slide may occur, this time in the general direction of Hillcrest.

The tremendous slab of mountain, 1,300 feet high, four miles wide and 500 feet thick, travelled two and one-half miles, climbing 500 feet up the slope of the opposite side of the valley. Boulders and rock covered an area of 3,200 acres to a depth of 100 feet. Fortunately, only the northeastern outskirts of the community of Frank were affected.

A second major disaster was averted by a railroad worker surveying the scene seconds after the slide, who managed to flag down an oncoming train.

Up in a coal shaft, 17 miners heard a roar and thought the world was falling apart around them. They rushed to the entrance to find a fine cloud of dust settling behind a solid wall of limestone rock. Some nine hours later, as outside rescue parties worked feverishly to clear the debris, a shout was heard from a higher level. The miners had freed themselves.

The vast stretch of rock is an inexhaustible supply for railway maintenance work — and souvenirs for visitors. Occasionally some remnant of the fearful morning is unearthed by work of crews. A cairn and signs tell the story of the tragedy.

— Department of Economic Affairs Booklet ●



## SECRETARY'S

## CALENDAR

Prepare monthly cash statement, Section 67 (N) of The Town and Village Act.

## GAZETTEER PUBLISHED

More than 6,500 Alberta place names are listed in the Alberta Gazetteer now available from the Queen's Printer, Ottawa. Price is \$1.25 per copy. Prepared by members of the Geographic Board of Alberta in cooperation with the Canadian Board on Geographical Names, the new publication required two years of research to complete.

Origin of the names is not given, but the legal description of each location as well as its latitude and longitude is included. Covered are cities, towns, villages, post offices, lakes, mountains and streams of the Province.

The gazetteer is first such publication since 1928. ●

## RULING ON ASSESSMENT

(From Page 1)

guidance from the Minister of Municipal Affairs both from the standpoint of policy as well as intent.

I am now advised that the Government had intended that fixed equipment located on well sites and battery sites and used or capable of being used for production purposes would continue to be assessable to the lessee in the nature of improvements and apart from the land. I am also advised that in any instance where such equipment is assessable the Government would not favor the imposition of a business tax additional thereto.

In line with the foregoing it may be anticipated that required amending legislation necessary to clarify the present difficulty will be submitted for consideration by the Legislature at the 1959 Session and I would therefore recommend that assessors should proceed as follows during the interim period:

(1) Where fixed equipment used for the production of gas or oil or both is located on land, title to which is registered in the name of the operator, all such equipment should be assessed in the nature of improvements to the owner of the land.

(2) Where fixed equipment used for the production of gas or oil or both is located on Crown Land held under lease by an operator, all such equipment should be assessed in the nature of improvements to the lessee together with the interest of the lessee in the land as a conditional owner.

(3) Where fixed equipment used for the production of gas or oil or both is located on land held under lease from a person who is the owner of the surface of the land, all such equipment should be assessed in the nature of improvements to the owner of same and apart from the land.

(4) Fixed equipment appraised in accordance with (1), (2) and (3) outlined above should be granted depreciation to date of assessment.

Having recently discussed the situation generally with the Tax Committee of the Canadian Petroleum Association it would appear that the oil industry is in agreement with the policy favored by the Government and I am therefore of the opinion that assessors can expect to receive their fullest cooperation. ●

## EXPECT BIG ENROLLMENT

(From Page 1)

tutors may meet students, to make certain that this new method of correspondence teaching will be convenient for as large a proportion of the student body as possible.

It is now definite that credit will be granted to those assessment students who have previously been successfully examined in Appraisal I, offered by the Appraisal Institute of Canada, for the third year of the Assessment course. It will also be possible, next year, for students to enroll in any two courses, Assessment I and II or Administration I and II, as these courses are offered. Applicants will not be allowed to sit examinations without previously having been registered for the full course.

Mr. Bancroft said it is expected that examinations will be held simultaneously in various centres in the Province next spring. ●

## HUTTERITE STUDY

Spreading Hutterite colonies in Alberta are being studied by a three-man committee, the appointment of which was announced in September. Members are W. E. Frame, former Chief Inspector of Schools; Charles P. Hayes, Strome, president of the Alberta Association of Municipal Districts; and J. M. Bentley, Vice president, Alberta Federation of Agriculture.

Alberta's present Communal Properties Act provides that Hutterite colonies must be at least 40 miles apart. Land held by members of the sect in the southern part of the Province is approaching this limit so, unless new regulations are adopted, future colonies may have to be established in northern areas.

It is hoped the study by the new committee will be completed in time for recommendations to be considered during the 1959 session of the Legislature. ●